

THE EFFECTIVE DATE OF THIS ORDINANCE IS November 22, 2002

ORDINANCE NO. 02-26-322

Re: Amendment to the Zoning Ordinance to  
Implement the Moderately Priced Dwelling  
Unit (MPDU) Program

Zoning Text Amendment R-T-02-03

PREAMBLE

The Board of County Commissioners has adopted an Ordinance creating and implementing a Moderately Priced Dwelling Unit (MPDU) Program in response to a determination that a severe housing problem exists within the County with respect to the supply of housing for residents with moderate incomes.

One aspect of the Moderately Priced Dwelling Unit Program involves the creation and granting of "density bonuses" in connection with residential housing developments which are governed by the MPDU Program.

In order to implement the "density bonus" provision of the Moderately Priced Dwelling Unit Program, it is necessary to amend certain sections of the Frederick County Zoning Ordinance, Frederick County Code Section 1-19-1, *et seq.*

The Frederick County Planning Commission held a public hearing on Tuesday, November 12, 2002. The Planning Commission voted to recommend approval of the text amendment.

PC: CAO, COOPER, HORN, THOMPSON, WRIGHT, GRASSMICKLE, FILE

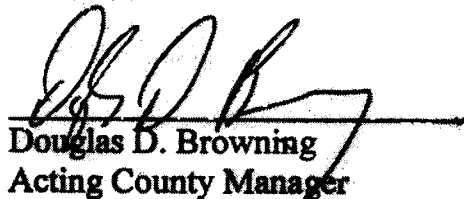
A public hearing was held by the Board of County Commissioners on November 12, 2002. The zoning text amendment and the public hearing before the Board of County Commissioners were duly advertised in the Frederick News Post, a newspaper of general circulation of Frederick County, on October 26, 2002 and November 2, 2002.

NOW THEREFORE BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY, MARYLAND that Chapter 19 of the Frederick County Code (1979) be amended as shown on the attached Exhibit A, which is incorporated herein by reference.

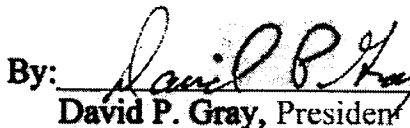
AND BE IT FURTHER ENACTED AND ORDAINED that this Ordinance shall take effect on November 22, 2002.

The undersigned hereby certifies that the foregoing ordinance was approved and adopted on the 21st day of November, 2002.

ATTEST:

  
Douglas D. Browning  
Acting County Manager

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

By:   
David P. Gray, President

MSC 11/25/02

## **ZONING TEXT AMENDMENT**

### **R-T-02-03**

#### **Exhibit A**

**Proposal:** To amend Sections 1-19-4, 1-19-138, 1-19-240, 1-19-290, 1-19-321, 1-19-322, 1-19-324, 1-19-357, 1-19-427, and 1-19-434 and to add Division 8 as follows:

#### **SECTION 1-19-4 – DEFINITIONS**

- (1) **MODERATELY PRICED DWELLING UNIT PROGRAM (MPDU)**  
A PROGRAM THAT CREATES AFFORDABLE HOUSING UNITS AS A FUNCTION OF THE DEVELOPMENT PROCESS FOR INCOME ELIGIBLE PERSONS BY MEANS OF AN INCREASE IN DENSITY IN A ZONING CLASSIFICATION THAT ALLOWS RESIDENTIAL DEVELOPMENT ABOVE THE DENSITY PERMITTED WITHIN THE DISTRICT.
- (2) **MPDU PROJECT – ANY RESIDENTIAL DEVELOPMENT OF TWENTY-FIVE (25) OR MORE UNITS ON PUBLIC WATER AND SEWER.**

#### **SECTION 1-19-138 LOT FRONTAGE REQUIREMENTS**

**SUB-SECTION (b) –** In a townhouse, garden apartment development, cluster subdivision, MPDU PROJECT, or a planned unit development, the lots may face on a common open space, or private street, provided that the plan of such development is approved by the planning commission.

#### **SECTION 1-19-240 RESIDENTIAL DENSITY ZONING DISTRICTS GENERALLY**

The purpose of the residential density districts is to promote healthful and convenient distribution of population with sufficient densities to maintain a high standard of physical design and community service. Residential density districts will conform to the County Comprehensive Plan and will be located within areas identified for residential development. The districts, as a group, are intended to provide for a variety of dwelling types and densities and to offer housing choices at various economic levels. It is further the intent to establish various densities of residential developments in order to efficiently and effectively provide for necessary public services and facilities. The following residential density districts and maximum densities are hereby established:

Residential District	Residential Density Class	Maximum Dwelling Units Per Acre
R-1	Low	1
R-3	Low	3
R-5	Medium	5
R-8	Medium	8
R-12	High	12
R-16	High	16

AN EXCEPTION TO THE MAXIMUM DENSITY IS ALLOWED UNDER THE MPDU PROGRAM IN ACCORDANCE WITH DIVISION 8 OF THIS CHAPTER.

The location of the districts will be consistent with the standards, criteria, and location as specified in the County Comprehensive Development Plan.

#### SECTION 1-19-290. DESIGN REQUIREMENTS FOR SPECIFIC DISTRICTS.

NOTE 4. LOT AREA, WIDTH AND YARD MEASUREMENTS MAY BE MODIFIED IN ACCORDANCE WITH DIVISION 8 OF THIS CHAPTER (TO RESIDENTIAL ZONES – R3, R5, R8, R12, R16, VC)

#### SECTION 1-19-321. PLANNED UNIT DEVELOPMENT (PUD)

- (d) The gross density of the PUD is set in the following table and will not exceed the maximum density specified for the residential classification of the Comprehensive Development Plan for the area in which the PUD is proposed.

Comprehensive Development Plan Classification	Density
Low Density Residential	1 – 5 hu/acre
Medium Density Residential	5-11 hu/acre
High Density Residential	10-18 hu/acre

Such density is calculated on the basis of only that land area classified as residential in the Comprehensive Development Plan and will be set by the Board of County Commissioners and will be within the ranges set by the above density table. If the PUD is located within two (2) or more residential classifications then the density to be set may reflect a weighted average of the density ranges specified for the residential classification in which the PUD is proposed. The weighted average shall be based upon the percentage of land area in each classification. PUDs ARE SUBJECT TO THE REQUIREMENTS OF DIVISION 8 OF THIS CHAPTER. DENSITY BONUS WILL BE DETERMINED AS PART OF THE PUD REVIEW PROCESS.

#### SECTION 1-19-322. MOBILE HOME PARK (MH)

- (c) The minimum tract size for a mobile home park is ten (10) acres, with a minimum tract width of three hundred (300) feet and green area of fifty-foot depth from the tract property lines. Density shall be determined as follows:

Comprehensive Plan Designation	Square Footage per Unit
Low Density	12,000
Medium Density	8,000
High Density	4,000

Density may be increased ten (10) percent provided: The cluster concept design is used as approved by the planning commission and fifty (50) percent of the area gained from reduced sizes is set aside as green area. MOBILE HOME PARKS ARE SUBJECT TO DIVISION 8 OF THIS CHAPTER.

#### SECTION 1-19-324 MIXED USE DEVELOPMENT (MXD)

- (IV) *Permitted land uses.* Land uses permitted within an MXD district are limited to only the following uses:

(A) *Residential:* Medium-density and high-density residential uses including townhouses, multi-plexes, condominiums, apartments and elderly housing. (Single-family detached residences are not permitted EXCEPT AS PART OF AN MPDU PROJECT IN ACCORDANCE WITH DIVISION 8 OF THIS CHAPTER.)

- (X) *MPDU REQUIREMENTS APPLICABLE*  
MXD DEVELOPMENTS WHICH INCLUDE A RESIDENTIAL COMPONENT ARE SUBJECT TO THE REQUIREMENTS OF DIVISION 8 OF THIS CHAPTER.

#### SECTION 1-19-357 SCOPE

The provisions of this division shall apply only to cluster developments. MPDU PROJECTS ARE EXCLUDED FROM THE PROVISIONS OF THIS DIVISION."

#### SECTION 1-19-427. DENSITY

The overall density shall not exceed the maximum density permitted within the zoning district in which the development is located. When recorded as individual lots, each townhouse lot shall have a minimum of one thousand six hundred (1,600) square feet. Forty (40) percent of the difference in lot size and net land area per townhouse shall be allocated to green area. TOWNHOUSE DEVELOPMENTS ARE SUBJECT TO THE REQUIREMENTS OF DIVISION 8 OF THIS CHAPTER.

#### SECTION 1-19-434. SCOPE

The provisions of this division shall apply only to cohousing developments. Such

developments shall consist of no more than thirty-five (35) units, not including common facilities. An incorporated development organization consisting of a majority of the intended number of residents of the development shall be required for application under these provisions. ALL CO-HOUSING DEVELOPMENTS ARE SUBJECT TO THE REQUIREMENTS OF DIVISION 8 OF THIS CHAPTER.

DIVISION 8. MODERATELY PRICED DWELLING UNIT (MPDU)  
DEVELOPMENT\*

**SECTION 1-19-442. PURPOSE AND DESCRIPTION**

THE PURPOSE OF THE MPDU PROGRAM IS TO SUBSTANTIALLY INCREASE THE COUNTY'S SUPPLY OF MODERATELY PRICED HOUSING UNITS AS A NATURAL FUNCTION OF THE DEVELOPMENT PROCESS. THIS PROGRAM PERMITS AN INCREASE IN DENSITY ABOVE THE TOTAL NUMBER OF DWELLING UNITS PERMITTED BY THE STANDARD METHOD OF DEVELOPMENT. IT ALSO PERMITS A REDUCTION IN CERTAIN AREA AND DIMENSIONAL REQUIREMENTS. ALTERNATIVE OPTIONS TO THE PRODUCTION OF MPDUs IN RESIDENTIAL DEVELOPMENTS MAY BE GRANTED IN EXCEPTIONAL CASES (CHAPTER 6A SEC. 1-6A-5(E) OF THE MPDU PROGRAM). THE SITE PLAN APPROVAL PROCEDURES OF CHAPTER 19, DIVISION 4 OF THIS CODE MUST BE FOLLOWED, EXCEPT AS PROVIDED IN THIS DIVISION. WHERE ANY OF THE PROVISIONS OF THIS SECTION ARE ELECTED FOR A DEVELOPMENT, ALL OF THE REQUIREMENTS OF THIS DIVISION APPLY.

**SECTION 1-19-443. SCOPE & REQUIREMENTS**

THE PROVISIONS OF THIS DIVISION SHALL APPLY TO ALL RESIDENTIAL DEVELOPMENTS CONSISTING OF TWENTY-FIVE (25) UNITS OR MORE ON PUBLIC WATER AND SEWER. RESIDENTIAL DEVELOPMENTS CONSISTING OF 25 UNITS OR MORE, ARE REQUIRED TO PROVIDE NO LESS THAN TWELVE AND A HALF (12.5) PERCENT OF THE TOTAL UNITS AS MPDU'S. THIS INCLUDES ALL DEVELOPMENTS IN VC, R-3, R-5, R-8, R-12, R-16 RESIDENTIAL DISTRICTS, MXD AND PUD'S.

**SECTION 1-19-444. DENSITY BONUS**

DENSITY BONUSES RANGING FROM 1% TO 22% WITH A CORRESPONDING INCREASE IN THE MPDU REQUIREMENT FROM 12.5% TO 15% ARE PERMITTED IN R-3, R-5, R-8, R-12, AND R-16 RESIDENTIAL DISTRICTS, VC, MXD, PUD'S AND CO-HOUSING.

- THE SPECIFIC REGULATIONS GOVERNING THE UNIT COSTS, INCOME LEVELS AND ADMINISTRATION OF THE MPDU PROGRAM ARE ESTABLISHED AS A SEPARATE MPDU ORDINANCE WITH ACCOMPANYING RESOLUTIONS AND SHALL BE THE GOVERNING AUTHORITY.

THE REQUIRED MPDU UNITS AND ALLOWED DENSITY BONUSES ARE:

ACHIEVED DENSITY BONUS	MPDUs REQUIRED
ZERO	12.5%
UP TO 1%	12.6%
UP TO 2%	12.7%
UP TO 3%	12.8%
UP TO 4%	12.9%
UP TO 5%	13.0%
UP TO 6%	13.1%
UP TO 7%	13.2%
UP TO 8%	13.3%
UP TO 9%	13.4%
UP TO 10%	13.5%
UP TO 11%	13.6%
UP TO 12%	13.7%
UP TO 13%	13.8%
UP TO 14%	13.9%
UP TO 15%	14.0%
UP TO 16%	14.1%
UP TO 17%	14.2%
UP TO 18%	14.3%
UP TO 19%	14.4%
UP TO 20%	14.5%
UP TO 22%	15.0%



## **SECTION 1-19-445. EXCEPTIONS**

Any existing site plan, preliminary subdivision plat or Phase II PUD plan approved and having prior APFO approval prior to the effective date of this chapter, shall be exempt from the MPDU requirement as long as such approved plan or plat, including any extension or modification thereof, remains valid. Notwithstanding the above, if any revision or modification of an approved plan which would otherwise be exempt from this chapter increases the density of the project, the increased density shall be subject to the requirements of this chapter.

## SECTION 1-19-446. LOT AREA, WIDTH AND YARD MEASUREMENTS

[illegible]

Residential Eight District-R-8	Current Minimum Lot Area	Proposed Minimum Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential:												
Single-Family	6,000	3,500	65	35	25	5	8	4/10*	30	25	30	40
Duplex Dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	25	30	40
Two-Family Dwelling	12,000	1,750**	100	35	25	5	10	4/10*	30	25	30	40
Townhouse	1,600	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi-Family Dwelling	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60
Multi-Family Group	No Min.	No Min.	150	120	40	10	30	10	50	20	40	60
Residential Twelve District-R-12												
Residential:												
Single-Family	6,000	3,000	65	30	25	5	8	4/10*	30	20	30	40
Duplex Dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	20	30	40
Two-Family Dwelling	10,000	1,500**	100	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	25	5	15	4/10*	20	20	30	40
Multi-Family Dwlg.	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120
Multi-Family Group	No Min.	No Min.	150	100	40	10	+	10	+	20	100	120

Residential Sixteen District R-16	Current Minimum Lot Area	Proposed Minimum Lot Area	Current Lot Width	Proposed Lot Width	Current Front Yard	Proposed Front Yard	Current Side Yard	Proposed Side Yard	Current Rear Yard	Proposed Rear Yard	Current Height	Proposed Height
Residential:												
Single-Family	6,000	3,000	60	30	25	5	8	4/10*	30	20	30	40
Duplex Dwelling	6,000	2,000**	60	20	25	5	8	4/10*	30	20	30	40
Two-Family Dwelling	10,000	1,500**	60	30	25	5	8	4/10*	30	20	30	40
Townhouse	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi-Family Dwelling	No Min.	No. Min	100	80	50	10	+	10	+	20	100	120
Multi-Family Group	No Min.	No Min.	100	80	120	10	+	10	+	20	100	120
Village Center-VC												
Single Family	6,000	3,000	65	30	25	5	8	4/10*	30	20	30	40
Duplex Dwelling	6,000	2,000**	65	20	25	5	8	4/10*	30	20	30	40
Two-Family Dwelling	10,000	1,500**	75	30	25	5	8	4/10*	30	20	30	40
Townhouses	1,600	1,600	16	16	15	5	10	4/10*	20	20	30	40
Multi Family Dwelling	No Min.	No Min.	65	50	25	10	15	10	50	20	45	45
Multi-Family Group	No Min.	No Min.	150	100	40	10	30	10	50	20	45	45

## **SECTION 1-19-447 PROCEDURES FOR APPLICATION AND APPROVAL**

A WRITTEN MPDU AGREEMENT MUST BE APPROVED BY THE DIRECTOR OF HOUSING IN ACCORDANCE WITH CHAPTER 6A (MPDU ORDINANCE), PRIOR TO THE ISSUANCE OF A BUILDING PERMIT OR THE RECORDATION OF A FINAL PLAT.